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IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

IN THE MATTER OF THE  
SEIZURE OF:

ANY AND ALL FUNDS HELD IN  
REPUBLIC BANK OF ARIZONA  
ACCOUNT[S] XXXX1889, XXXX2592,  
XXXX1938, XXXX2912, AND,  
XXXX2500.

No. 18-CV-06742-RGK (PJW)

**Response to Government's  
Notice of Material Development**

1 Movant/Claimant James Larkin hereby responds to the Government's Notice  
2 of Material Development, in which it submitted the October 24, 2019 order in *United*  
3 *States v. Lacey, et al.*, 2:18-CR-00422-001-PHX-SMB (D. Ariz.) this Court's Order (Doc.  
4 102).

5 The Government submitted this Order denying a motion to dismiss the  
6 indictment in a related criminal case with the misleading representation that it  
7 addressed First Amendment arguments "certain of which claimants have asserted,  
8 repeated, or referenced in these proceedings." The Notice does not identify any  
9 particular First Amendment argument that was raised or addressed in the Arizona  
10 proceeding that is at issue in the Motion pending before this Court. This is because  
11 the two proceedings raise entirely different issues.

12 Contrary to the Government's vague reference to "certain arguments," the  
13 Arizona Order addressed only the question of whether the Superseding Indictment  
14 was constitutionally deficient on its face if all its allegations are accepted as true. It  
15 decided only whether the criminal case may proceed to trial. Nothing in the Order  
16 addressed or decided the legality of pretrial seizures of publishing assets without an  
17 adversary hearing, what standards must apply in any such hearing, or any issue  
18 involving the sufficiency of the affidavits submitted to justify the seizures. The First  
19 and Fourth Amendment questions in this proceeding are governed by precedents that  
20 determine what actions the Government may or may not take prior to trial and what  
21 standards apply, issues that are not discussed in the Arizona Order.

1 DATED this 1st day of November, 2019.

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 1, 2019, I electronically transmitted a PDF version of this document to the Clerk of the Court, using the CM/ECF System, for filing and for transmittal of a Notice of Electronic Filing to the following CM/ECF registrants listed below.

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